
SENATE BILL 5082

State of Washington 60th Legislature 2007 Regular Session

By Senators Spanel, Swecker, Murray and Kohl-Welles

Read first time 01/10/2007. Referred to Committee on Labor,
Commerce, Research & Development.

1 AN ACT Relating to time periods for collective bargaining by state
2 ferry employees; and amending RCW 47.64.170, 47.64.210, and 47.64.300.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 47.64.170 and 2006 c 164 s 6 are each amended to read
5 as follows:

6 (1) Any ferry employee organization certified as the bargaining
7 representative shall be the exclusive representative of all ferry
8 employees in the bargaining unit and shall represent all such employees
9 fairly.

10 (2) A ferry employee organization or organizations and the governor
11 may each designate any individual as its representative to engage in
12 collective bargaining negotiations.

13 (3) Negotiating sessions, including strategy meetings of the
14 employer or employee organizations, mediation, and the deliberative
15 process of arbitrators are exempt from the provisions of chapter 42.30
16 RCW. Hearings conducted by arbitrators may be open to the public by
17 mutual consent of the parties.

18 (4) Terms of any collective bargaining agreement may be enforced by

1 civil action in Thurston county superior court upon the initiative of
2 either party.

3 (5) Ferry system employees or any employee organization shall not
4 negotiate or attempt to negotiate directly with anyone other than the
5 person who has been appointed or authorized a bargaining representative
6 for the purpose of bargaining with the ferry employees or their
7 representative.

8 (6)((+a)) The negotiation of a proposed collective bargaining
9 agreement by representatives of the employer and a ferry employee
10 organization shall commence ~~((on or about September))~~ at any time after
11 February 1st of every ~~((odd-numbered))~~ even-numbered year. ~~((However,~~
12 ~~negotiations for the 2007-2009 biennial agreements may commence at any~~
13 ~~time after March 21, 2006. Negotiations for agreements pertaining to~~
14 ~~the 2009-2011 biennium and all subsequent negotiations must conclude on~~
15 ~~or about April 1st of the year following the year in which the~~
16 ~~negotiations commence. If negotiations are not concluded by April 1st,~~
17 ~~the parties shall be deemed to be at impasse and shall proceed to~~
18 ~~mediation under RCW 47.64.230 and 47.64.300 through 47.64.320.~~

19 ~~(b) For negotiations covering the 2009-2011 biennium and subsequent~~
20 ~~biennia, the time periods specified in this section, and in RCW~~
21 ~~47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of~~
22 ~~all agreements on or before September 1st of the even-numbered year~~
23 ~~next preceding the biennial budget period during which the agreement~~
24 ~~should take effect. These time periods may only be altered by mutual~~
25 ~~agreement of the parties in writing. Any such agreement and any~~
26 ~~impasse procedures agreed to by the parties under RCW 47.64.200 must~~
27 ~~include an agreement regarding the new time periods that will allow~~
28 ~~final resolution by negotiations or arbitration by September 1st of~~
29 ~~each even-numbered year. Negotiations for the 2007-2009 biennium must~~
30 ~~be concluded on or before October 1, 2006.)~~

31 (7) Until a new collective bargaining agreement is in effect, the
32 terms and conditions of the previous collective bargaining agreement
33 shall remain in force. It is the intent of this section that the
34 collective bargaining agreement or arbitrator's award shall commence on
35 July 1st of each odd-numbered year and shall terminate on June 30th of
36 the next odd-numbered year to coincide with the ensuing biennial budget
37 year, as defined by RCW 43.88.020(7), to the extent practical. It is
38 further the intent of this section that all collective bargaining

1 agreements be concluded by (~~September~~) October 1st of the even-
2 numbered year before the commencement of the biennial budget year
3 during which the agreements are to be in effect.

4 (8)(a) The governor shall submit a request either for funds
5 necessary to implement the collective bargaining agreements including,
6 but not limited to, the compensation and fringe benefit provisions or
7 for legislation necessary to implement the agreement, or both.
8 Requests for funds necessary to implement the collective bargaining
9 agreements shall not be submitted to the legislature by the governor
10 unless such requests:

11 (i) Have been submitted to the director of the office of financial
12 management by October 1st before the legislative session at which the
13 requests are to be considered; and

14 (ii) Have been certified by the director of the office of financial
15 management as being feasible financially for the state.

16 (b) The governor shall submit a request either for funds necessary
17 to implement the arbitration awards or for legislation necessary to
18 implement the arbitration awards, or both. Requests for funds
19 necessary to implement the arbitration awards shall not be submitted to
20 the legislature by the governor unless such requests have been
21 submitted to the director of the office of financial management by
22 October 1st before the legislative session at which the requests are to
23 be considered.

24 (c) The legislature shall approve or reject the submission of the
25 request for funds necessary to implement the collective bargaining
26 agreements or arbitration awards as a whole for each agreement or
27 award. The legislature shall not consider a request for funds to
28 implement a collective bargaining agreement or arbitration award unless
29 the request is transmitted to the legislature as part of the governor's
30 budget document submitted under RCW 43.88.030 and 43.88.060. If the
31 legislature rejects or fails to act on the submission, either party may
32 reopen all or part of the agreement and award or the exclusive
33 bargaining representative may seek to implement the procedures provided
34 for in RCW 47.64.210 and 47.64.300.

35 (9) If, after the compensation and fringe benefit provisions of an
36 agreement are approved by the legislature, a significant revenue
37 shortfall occurs resulting in reduced appropriations, as declared by

1 proclamation of the governor or by resolution of the legislature, both
2 parties shall immediately enter into collective bargaining for a
3 mutually agreed upon modification of the agreement.

4 **Sec. 2.** RCW 47.64.210 and 2006 c 164 s 8 are each amended to read
5 as follows:

6 In the absence of an impasse agreement between the parties or the
7 failure of either party to utilize its procedures by (~~April~~) August
8 1st in the even-numbered year preceding the biennium, either party may
9 request the commission to appoint an impartial and disinterested person
10 to act as mediator. It is the function of the mediator to bring the
11 parties together to effectuate a settlement of the dispute, but the
12 mediator shall not compel the parties to agree.

13 **Sec. 3.** RCW 47.64.300 and 2006 c 164 s 12 are each amended to read
14 as follows:

15 (1) If an agreement has not been reached following a reasonable
16 period of negotiations and, when applicable, mediation, (~~but in either~~
17 ~~event by April 15th,~~) upon the recommendation of the assigned mediator
18 that the parties remain at impasse, all impasse items shall be
19 submitted to arbitration under this section. The issues for
20 arbitration shall be limited to the issues certified by the commission.

21 (2) The parties may agree to submit the dispute to a single
22 arbitrator, whose authority and duties shall be the same as those of an
23 arbitration panel. If the parties cannot agree on the arbitrator
24 within five working days, the selection shall be made under subsection
25 (3) of this section. The full costs of arbitration under this section
26 shall be shared equally by the parties to the dispute.

27 (3) Within seven days following the issuance of the determination
28 of the commission, each party shall name one person to serve as its
29 arbitrator on the arbitration panel. The two members so appointed
30 shall meet within seven days following the appointment of the later
31 appointed member to attempt to choose a third member to act as the
32 neutral chair of the arbitration panel. Upon the failure of the
33 arbitrators to select a neutral chair within seven days, either party
34 may apply to the federal mediation and conciliation service, or the
35 American arbitration association to provide a list of five qualified
36 arbitrators from which the neutral chair shall be chosen. Each party

1 shall pay the fees and expenses of its arbitrator, and the fees and
2 expenses of the neutral chair shall be shared equally between the
3 parties.

4 (4) In consultation with the parties, the arbitrator or arbitration
5 panel shall promptly establish a date, time, and place for a hearing
6 and shall provide reasonable notice thereof to the parties to the
7 dispute. The parties shall exchange final positions in writing, with
8 copies to the arbitrator or arbitration panel, with respect to every
9 issue to be arbitrated, on a date mutually agreed upon, but in no event
10 later than ten working days before the date set for hearing. A
11 hearing, which shall be informal, shall be held, and each party shall
12 have the opportunity to present evidence and make argument. No member
13 of the arbitration panel may present the case for a party to the
14 proceedings. The rules of evidence prevailing in judicial proceedings
15 may be considered, but are not binding, and any oral testimony or
16 documentary evidence or other data deemed relevant by the chair of the
17 arbitration panel may be received in evidence. A recording of the
18 proceedings shall be taken. The arbitration panel has the power to
19 administer oaths, require the attendance of witnesses, and require the
20 production of such books, papers, contracts, agreements, and documents
21 as may be deemed by the panel to be material to a just determination of
22 the issues in dispute. If any person refuses to obey a subpoena issued
23 by the arbitration panel, or refuses to be sworn or to make an
24 affirmation to testify, or any witness, party, or attorney for a party
25 is guilty of any contempt while in attendance at any hearing held
26 hereunder, the arbitration panel may invoke the jurisdiction of the
27 superior court in the county where the labor dispute exists, and the
28 court has jurisdiction to issue an appropriate order. Any failure to
29 obey the order may be punished by the court as a contempt thereof.

30 (5) The neutral chair shall consult with the other members of the
31 arbitration panel, if a panel has been created. Within thirty days
32 following the conclusion of the hearing, the neutral chair shall make
33 written findings of fact and a written determination of the issues in
34 dispute, based on the evidence presented. A copy thereof shall be
35 served on each of the other members of the arbitration panel, and on
36 each of the parties to the dispute. That determination is final and
37 binding upon both parties, subject to review by the superior court upon

1 the application of either party solely upon the question of whether the
2 decision of the panel was arbitrary or capricious.

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